

CIVIL SERVICE COMMISSION MINUTES

January 19, 2005

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Marc Sandstrom
Gordon Austin
Barry I. Newman
Francesca Krauel

Absent was:

A.Y. Casillas

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamarly, Executive Officer
William D. Smith, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

**Approved
Civil Service Commission**

February 16, 2005

**COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
JANUARY 19, 2005**

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
1,4,5,6,7,8,9,10,11	7,8		21,22,23
12,13,14,15,16,17			

COMMENTS: Motion by Newman to approve all items not held for discussion; seconded by Krauel. Carried.

**CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.**

A. Commissioner Casillas: **Thomas Hargraves**, former Building Maintenance Supervisor, appealing a Final Order of Termination and Causes from the Department of General Services.

B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)
Sue Tiu v. San Diego County Civil Service Commission,
Superior Court Case No. GIC 837901

C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)
Sue Tiu v. San Diego County Civil Service Commission,
Superior Court Case No. GIC 836173

**OPEN SESSION AGENDA
County Administration Center, Room 358**

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and approved by the Commission President.

President Marc Sandstrom announced his resignation as a Civil Service Commissioner and thanked staff for its support. Mr. Sandstrom's resignation is effective February 18, 2005:

Commissioner Sandstrom:

"I have one off-agenda item that I would like to announce, and that is I have filed my resignation with the Commission, today, with the County Board of Supervisors effective February 18th. I have truly enjoyed my tenure here and publicly thank Supervisor Roberts and the Board for the nomination and appointment. I have come, over the last 3 years, to really appreciate the important role the Commission plays in maintaining the integrity of Civil Service. I have many thanks to offer: first, my fellow Commissioners who all give very significant amounts of time and effort to make the system work. To Joy, Selinda and Todd, who work so hard behind the scenes. They are a fun, giving and forgiving group. And finally, to Patt who has stepped into her position with professionalism and with a spirit that has caused the transition to be seamless. And I think we have seen a new beginning for the Commission and I'm pleased with that and I know all the other Commissioners are."

ELECTIONS

1. Election of President and Vice-President of the Civil Service Commission for 2005.

Motion by Newman to elect A. Y. Casillas as President and Gordon Austin as Vice-President; seconded by Krauel. Carried.

MINUTES

2. Approval of the Minutes of the regular meeting of December 15, 2004.

Approved.

CONFIRMATION OF ASSIGNMENT

3. Commissioner Krauel: Julie Buechler, Esq., on behalf of, 2005-01, appealing Orders from the Sheriff's Department.

Confirmed.

DISCIPLINE

Findings

4. Commissioner Casillas: **Thomas Hargraves**, former Building Maintenance Supervisor, appealing a Final Order of Termination and Causes from the Department of General Services.

FINDINGS AND RECOMMENDATION:

Employee was charged with Cause I - conduct unbecoming an Officer of Employee (illegally occupying residence; demonstrated lack of diligence in attempting to secure the medical verification as required by supervisor and appointing authority); Cause II - acts incompatible with or inimical to the public service; Cause III - Failure of good behavior; Cause IV - Inefficiency; and Cause V - Dishonesty.

Appellant appealed a Final Order of Termination and Causes. He was terminated for allegedly 1) Taking possession of County owned housing without authorization; and 2) Failing to comply with his supervisor's request for medical documentation to address suspicions that he forged a medical form to excuse certain absences from work. Appellant denied the charges. He argued 1) That he was not residing in the County housing but that he was only storing his belongings and performing repair work there while negotiating with the County to rent the property; 2) That he had implicit and explicit authorization to be on the property; and 3) That he made all reasonable efforts to obtain the requested medical documentation and that any delay and missing documentation was the fault of his medical provider. At the time the alleged incidents occurred, Appellant was just completing a 30-day disciplinary suspension.

At the Commission hearing, the Department provided the testimony of several witnesses who substantiated its charges. On the other hand, Appellant provided only his own testimony and partial medical records. While some of Appellant's testimony provided plausible explanations, it directly conflicted with key portions of the testimony of the Department's witnesses. The testimony of the Department's witnesses was better corroborated. Moreover, the medical records indicated that Appellant's medical excuse for his absence was a forgery. Accordingly, the Department proved its charges and the level of discipline is appropriate.

By a preponderance of evidence, the Department proved all of the charges, except with respect to such minor distinctions as between whether Employee lived in the residence without authorization or simply occupied the residence without authorization. Employee is guilty of Cause I, Cause II,

Cause III, Cause IV and Cause V. It is therefore recommended that the Final Order of Termination and Causes be affirmed; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings and Recommendations; seconded by Krauel. Carried.

DISCRIMINATION

Findings

5. Commissioner Newman: **Linda Read**, Human Services Specialist, Health and Human Services Agency (HHSA), alleging disability discrimination by the HHSA.

Prior to the reading of the following Findings and Recommendations, Linda Read addressed the Commission, setting forth reasons why her hearing should be granted.

FINDINGS AND RECOMMENDATION:

At the special meeting of the Civil Service Commission on September 25, 2003 the Commission appointed Barry I. Newman to investigate the complaint submitted by Linda Read alleging disability discrimination by the Health and Human Services Agency. In accordance with the established rules and procedures of the Civil Service Commission, the matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation.

The undersigned Investigating Officer has taken into consideration all documentation, submitted by Ms. Read and the Agency, as well as the report of OIA. The Investigating Officer concludes that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred.

It is therefore recommended that Ms. Read's Rule VI discrimination complaint be denied; that the Commission approve and file this report with the appended OIA Final Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings and Recommendations; seconded by Austin. Carried.

SELECTION PROCESS

Complaints

6. **Servando Cruz**, Stock Clerk, Sheriff's Department, appealing his non-selection for the classification of Community Service Officer by the Sheriff's Department.

RECOMMENDATION: Deny Request.

Mr. Cruz addressed the Commission in support of his request. Denise Reiber represented the Department's position. After discussion among the Commission members, Mr. Cruz and the Department, as well as review of the submitted documentation, the following motions were presented:

Motion by Austin to grant a Rule X hearing. Motion failed for lack of second.

Motion by Newman to deny request; seconded by Krauel. Carried.

AYES:	Sandstrom, Newman, Krauel
NOES:	Austin
ABSTENTIONS:	None
ABSENT:	Casillas

The following items: 7 through 17 were heard simultaneously. Each appellant who requested audience with the Commission was granted 5 minutes. Willie Cook and Carlos Arauz, Director, represented the Department of Human Resources. There was extensive discussion and questions posed by the Commission to the Department.

Motion by Sandstrom to accept staff recommendation on items 9-15; seconded by Krauel. Carried.

Motion by Newman to accept staff recommendation on items 7 and 8; seconded by Krauel.

AYES:	Newman, Krauel
NOES:	Sandstrom, Austin
ABSTENTIONS:	None
ABSENT:	Casillas

Due to a 2-2 vote, Item Nos. 7 and 8 are continued to the February 16, 2005 meeting.

7. **Ardath DeRose**, Administrative Analyst II, Probation Department, appealing the Department of Human Resources' (DHR) determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst III.

RECOMMENDATION: Deny Request.

Continued.

8. **Sharon Ippolito**, Administrative Analyst II, HHSA, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst III.

RECOMMENDATION: Deny Request.

Continued.

9. **Leonard Gonzales Jr.**, Housing Specialist I, Department of Housing and Community Development, appealing DHR's determination that he is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

10. **Olivia Lansangan**, Accounting Technician, Department of Animal Services, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

11. **Emelita Oxina**, Supervising Clerk, HHSA, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

12. **John Fuss**, Storekeeper, HHSA, appealing DHR's determination that he is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

13. **Theresa Muckley**, Senior Clerk, HHSA, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

14. **David Altman**, Child Support Officer (Lead), Department of Child Support Services (DCSS), appealing DHR's determination that he is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

15. **Karyn Flowerree**, Child Support Officer, DCSS, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst I.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

16. **Wendy Bauer**, Child Support Officer (Lead), DCSS, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst I & II.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

17. **Melanie Pangilinan**, Child Support Officer, DCSS, appealing DHR's determination that she is ineligible to compete in the selection process for the classification of Administrative Analyst I & II.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

OTHER MATTERS

Ratification of Medical Providers

18. Ratification of **Stephen F. Signer, M.D.**, as an additional name to the list of medical providers to be used for fitness for duty examinations at the request of DHR.

19. Ratification of **Thomas C. Bruff, M.D., M.P.H.**, as an additional name to the list of medical providers to be used for fitness for duty examinations at the request of DHR.

RECOMMENDATION: Ratify Item Nos. 18 & 19.

Item Nos. 18 and 19 ratified.

Extension of Temporary Appointments

20. Health and Human Services Agency

A. 2 Residential Care Workers I (Archimedes Adajero, Lisa Garcia)

B. 2 Residential Care Workers II (Ralna Parugganan, Malina Reyes)

RECOMMENDATION: Ratify.

Item No. 20 ratified.

INFORMATION

21. **Gustavo Godoy**, Project Manager, Department of Parks and Recreation, withdrawal of complaint alleging racial discrimination by the Department of Parks and Recreation. (Commissioner Krauel)

22. **Gustavo Godoy**, Project Manager, Department of Parks and Recreation, withdrawal of appeal relating to the denial of his placement in "Bracket III" of the Project Manager classification by the Department of Parks and Recreation. (Held in abeyance pending the outcome of the above discrimination investigation.)

23. **Marta Henson**, Office Support Specialist, withdrawal of appeal from an Order of Suspension and Charges from the HHSA. (Commissioner Newman)

24. Public Input.

ADJOURNED: 4:30 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:

FEBRUARY 16, 2005